



## ***Planning Commission Meeting Minutes***

Tuesday, February 23, 2010

DATE: 29 April 2010

APPROVED BY: *ju3*

### **MINUTES OF THE LAKE COUNTY PLANNING COMMISSION February 23, 2010**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Ms. Pesec, Chair, called the meeting to order at 7:00 p.m.

#### **ROLL CALL**

The following members were present: Messrs. Adams, Brotzman, Martin (alt. for Troy), Morse, Schaedlich, Siegel, Smith (alt. for Sines), Welch (alt. for Aufuldish), Zondag, and Mmes. Hausch and Pesec. Staff present: Messrs. Boyd, Radachy, and Ms. Myers.

Mr Boyd, Secretary/Director stated that the Chair had asked him to recognize the two new alternates. He welcomed Mr. Welch from Perry Township, representing Commissioner Aufuldish and Mr. Martin from Concord Township, representing Commissioner Troy.

#### **MINUTES**

Mr. Schaedlich moved to approve the minutes as submitted and Ms. Hausch seconded the motion.

10 voted "Aye".  
One abstained.

Mr. Morse said there was a correction on page one. The Nominating Committee consisted of Ms. Pesec, Mr. Schaedlich and "Mr. Morse", not Mr. Siegel.

Mr. Schaedlich amended the motion to approve the minutes with the above-mentioned change and Ms. Hausch seconded the amended motion.

10 voted "Aye".  
One abstained.

## FINANCIAL REPORT

Mr. Boyd reminded the members that the Planning Commission has a temporary budget until the end of March. At that point and time, the Board of Lake County Commissioners will approve the budget for the remainder of the year.

Mr. Schaedlich moved to approve the January, 2010 Financial Report as submitted and Mr. Adams seconded the motion.

All voted "Aye".

## Public Officials Directory Quotes

The 2010 Public Officials Directory that Ms. Truesdell puts together yearly, was about ready to go to print. Mr. Boyd said there were only a couple of offices with updated rosters pending. Last year we printed 720 copies and this year we are ordering 700 due to a little decline in purchases because it was put on our website last year. The submitted quotes show the Repro Center in Euclid giving the lowest price at \$2.23 per copy. Mr. Boyd asked for a vote to approve printing the directory.

Mr. Zondag moved to accept the Repro Center in Euclid's quote for 700 copies of the Public Officials Directory in 2010. Mr. Welch seconded the motion.

All voted "Aye".

## PUBLIC COMMENT

There was no public comment.

## LEGAL REPORT

Ms. Patricia Nocero, Assistant Prosecutor, stated there was no legal report to give.

## DIRECTOR REPORT

Mr. Boyd reported that the contract for the Balance Growth Initiative Plan for \$100,000 had been signed by the Ohio Lake Erie Commission. The first installment of \$50,000 is expected any day to be shared with the Lake County Soil and Water Conservation District and the Lake County Stormwater Management Department. We have met as a team to start laying out the methodology. The watershed area covers approximately 19,000 acres from Fairport north of U.S. 20 to the Arcola Creek watershed in Madison. This initiative is a two-year program. The financial portion is currently being worked out by Mr. Matas of the Lake County Finance Department. The remainder of the funding is to be received by the end of the project period in December of 2011.

He stated that we are looking to renew our fee-based contract with Fairport Harbor and to move forward on mixed-use waterfront zoning on the Grand River.

Mr. Radachy has been working predominantly with the Census 2010.

We are working with the City of Willoughby on their lakefront zoning code around Lost Nation Road and Lakeshore Boulevard and are still full speed ahead on Coastal Plan implementation. Mr. Boyd is meeting Thursday in Madison Township with a potential firm that is supposed to be selected tonight at a Trustee meeting for improvements at Madison Township Park on Hubbard Road. This project will cost approximately \$500,000.

Mr. Boyd stated the staff will be very busy working on the Balanced Growth Plan and the funding research on the Coastal Plan.

Looking ahead, we are updating the 2000 Retail Trade Survey. As time opens up, Mr. Boyd would like the staff to start searching for grant revenues for researching and updating this survey.

## ANNOUNCEMENTS

Mr. Boyd mentioned Mr. Martin was appointed last week as an alternate for Mr. Troy and Mr. Welch having been appointed today as Mr. Aufuldish's alternate.

## SUBDIVISION REVIEW

### Resubdivision of Villa Grande at Lake Erie Shores, Sublot 14

Mr. Radachy introduced the resubdivision of subplot 14 in the Village Grande subdivision in Painesville Township. The developer is New Market Corporation and the Engineer is Oxbow Engineering. It is a .1891 acre parcel being divided into one subplot and one open space. The preliminary plan was approved May 31, 2005; the final plat was approved August 29, 2005; and it was recorded December 27, 2006. This division is being requested to allow for a trail from the subdivision to the beach and picnic area in the Lake Erie Shores subdivision. This will be the primary access to the subdivision's main open space area. Another open space to the south with a stream running through it has been environmentally covenanted and is unable to be used for this purpose.

The staff recommended approval of this resubdivision with nine stipulations and five comments listed below:

#### Staff Stipulations:

1. Subdivider shall set all permanent monuments for subplot corners prior to the subdivision being recorded. *Article I Section 4 (H).*
2. Ownership, Permanent Parcel Numbers, Volume and Page or record numbers of deeds shall be shown for Open Space 'B' sublots 13 and 15. *Article III Section 10 (E)(4)(b)(vii)*
3. Acknowledgement is needed from the property owners that they are rededicating subplot 14 with a new boundary and a new open space. *Article III Section 10(E)(4)(a)(vi)*

4. A statement or table stating the acreage for new subplot 14, open space 'D' and a total acreage being divided shall be on the plat. *Article III Section 10(E)(4)(a)(v)*
5. There are monuments in the center line of Villa Grande Drive. They do not need to be set.

Stipulations from Other Agencies Comments:

1. Show iron pins either found or to be set. *L C Engineer*
2. Add bearing and distances for all lines. *L C Engineer*
3. Show a minimum of two monuments with State Plane Coordinates. *L C Engineer*
4. Amend Acknowledgment language to read: "Be it known that the undersigned New Market Corporation grantors and owners of Sublot 14 in Villa Grande at Lake Erie Shores acknowledge, accept and represent their interests in the resubdivision of their Sublot 14 into two parcels: Sublot 14 and Open Space 'D' as shown hereon." *Lake County Prosecutor*

Comments:

1. Add signature lines for Commissioners, Prosecutor, Sanitary Engineer and acceptance signatures for utility companies. *L C Engineer*
2. Add Acceptance and Dedication paragraph. *L C Engineer*
3. What about mortgage release? *L C Engineer*
4. Who gets open space 'D'? *L C Engineer*
5. Sublot numbering does not match up with approved set of Improvement Plans. *Utilities Dept.*

Ms. Pesec asked who will be taking ownership of the open space and Mr. Radachy replied the homeowners of the Villa Grande Estates will probably own the open space as they already own A, B and C. There is a resolution from Painesville Township showing their approval. This was a change in the PUD and they had to go back to the Township to get approval.

Mr. Schaedlich moved to approve the resubdivision of Villa Grande at Lake Erie Shores, subplot 14 into one subplot and one open space as submitted and Mr. Morse seconded the motion.

All voted "Aye".

## Subdivision Report

- Summerwood, Phase 1, is to be released from maintenance on the March 2, 2010 Commissioners' agenda.
- The current contractor contacted Mr. Radachy to see how to get into maintenance and file the plat for Cambden Creek, Phase 2.
- Mr. Radachy has been receiving phone calls from surveyors and the general public about lot splits. There has been a definite increase in lot split activity in the last couple of weeks.

## LAND USE AND ZONING REVIEW

Mr. Radachy stated there were technically six cases from Leroy and Madison townships.

### Leroy Township Zoning Text Amendment to Section 2, Definitions:

The Leroy Township Zoning Commission was adding definitions for a common drive, flag lot, residential site plan, site development plan, cul-de-sac bulb lot, cul-de-sac permanent, cul-de-sac temporary, decibels, decommissioning plan, FAA, intra-project power lines, small wind farm, small wind energy system, solar energy commercial operations, solar panel, wind energy system, wind tower, wind tower height, and wind turbine.

Several of these definitions were being added because the Township was adding alternative energy regulations. Some of these definitions came from the Lake County Subdivision Regulations and other local township zoning resolutions.

The staff recommended that these changes be made except that the sentence, "The construction of the street shall conform to rules, regulations, and standards specifications for road improvements in accordance with ORC 711.101, these regulations and applicable zoning", should be deleted from the cul-de-sac permanent and cul-de-sac temporary definitions. These cul-de-sac definitions were taken from the Lake County Subdivision Regulations. ORC 711.101 gives the County the right to obtain a construction surety to guarantee the construction of roads and gives the County the ability to set specifications for the roads and other improvements. This is not a zoning issue and these should be removed.

The Land Use and Zoning Committee members said the definition of Intra-project Power Lines did not make sense. The definition made it sound like the solar panels must be buried. Staff stated that the language needed to be addressed and suggested deleting "must be buried". The Committee also suggested deleting "it" from the second line of the Small Wind Energy System definition.

The Land Use and Zoning Committee recommended accepting Section 2, Definitions with all of the above-mentioned changes.

Mr. Adams stated the second line of the Decommissioning Plan definition should read "their" instead of "there" and the term "useable condition" should be replaced with "restored to its natural state".

Mr. Schaedlich moved to recommend the submitted Section 2, Definitions be amended with the Planning Commission staff's, Land Use and Zoning Committee's and Mr. Adam's changes. Mr. Brotzman seconded the motion.

All voted "Aye".

### Leroy Township – Section 33, Alternate Energies

The Leroy Township Zoning Commission added rules for placement of Small Wind Farm and Solar Panel as an accessory use. ORC 519.213 states it confers on a township the right to adopt rules or regulations for small wind turbines under five mega watts that may be more strict than rules under ORC 4906.20 (B)(2).

Staff recommended the submitted changes be made with the addition of language that states, "no public structure should include guy wire anchors that may extend closer than 20 feet to the right-of-way line". The regulation did have a requirement that no part of the system, including the anchor wires, could be closer than 20 feet to a property line and you could interpret the right-of-way line as the property line, but thought it better to state it and not open the door to interpretation.

The Committee noted that the abbreviation for decibels in 33.04A A 8 did not correspond to the definitions section. It should be dB not dBA.

There was concern with the regulation stating "the amount of electricity to service a house may differ from house to house and may change over time as the family changes." Usage would be greater with a five-member family than a two-member family and the amount of family members under a roof often changes with time from the original servicing needs. This may also be difficult to enforce or monitor. The regulations state that if it takes five solar panels to power your home, you cannot have six. Using his family as an example with four children, a wife and a dog, Mr. Radachy could use seven solar panels. In five to ten years, his kids would be in college and he and his wife would no longer need seven solar panels. Would the township come in to tell them to take down five panels? While they had concerns about it, staff did not recommend any changes or removing it.

Mr. Boyd stated everything over five mega watts of wind power is governable by PUCO.

Mr. Zondag wanted to send it back with staff's comments because he did not think they had realized the possible long-term implications that would result from this regulation before it goes to a public hearing. Mr. Siegel agreed.

Mr. Zondag moved to have the staff send comments to Leroy Township that the regulation of solar panels is beyond their scope. Mr. Siegel seconded the motion.

All voted "Aye".

Leroy Township – Section 15, Residential R-1; Section 16, Residential R-2; and Section 23, Miscellaneous Signs

The Township was adding Small Wind Farm and Solar Panel as an accessory Use in R-1, Section 15.04 and R-2, Section 16.04. Sign language additions were being made for minimum square footage and maximum posting height for identification sign requirements for wind towers, buildings or other structures to Section 23.03.

The Land Use and Zoning Committee recommended acceptance of these text amendments.

Mr. Schaedlich moved to recommend accepting the text changes as submitted and Mr. Welch seconded the motion.

All voted "Aye".

Madison Township – Zoning Text Amendments for Accessory Structure and Wind Turbines under 5 Mega-Watts

Mr. Radachy said the staff had received a call from the Zoning Inspector from Madison Township today saying they were probably going to revise all the text amendments that were submitted. The Commission needs to discuss a recommendation because this was not decided upon at a public meeting.

The Madison Township Zoning Commission is adding Wind Farms as an accessory use to their zoning text. They are adding rules for placement of wind turbines as an Accessory Use. ORC 519.213 confers on a township the right to adopt rules or regulations for small wind turbines under 5 mega watts that may be more strict than rules under ORC 4906.20 (B)(2). These uses were not addressed by the Madison Township Comprehensive Plan, but visual impact of above-ground wires was addressed.

The staff and Land Use and Zoning Committee recommended the submitted text changes be resubmitted and suggested the following considerations:

- Use the term small wind farm instead of wind turbines. This will be more consistent with ORC 519.213.
- List the districts in which this is allowable or add this as an accessory use to the districts that you wish to allow this use.
- There should be a setback from overhead utility lines or wires such as, but not limited to, high tension electrical wires, cable, and telephone.
- Have your legal counsel review requiring proof of insurance.
- Add language requiring wires connecting the small wind farms to the grid to be underground.

- Add language prohibiting signs to be allowed on the tower.
- The township should allow for owner identification size and warning signs, but should limit the size and location of owner identification signs.
- Add language to address the maximum decibels a wind farm can produce.
- Add language to limit the amount of lighting that can trespass onto the neighboring properties.
- Require a decommissioning plan.

The Planning Commission staff offered to assist the Township in writing these regulations.

The requirement for proof of liability insurance was a concern. If this is required and the units collapsed onto a neighbor's property and the insurance expired, the Township may be sued because they initially required it. It was suggested to have the Township legal adviser look into this.

Mr. Zondag asked if a landowner could be required to insure something like this for the public good and Ms. Nocero stated a township could not require insurance of a property owner on anything.

Mr. Boyd stated that Madison Township realized they have a lot of work to do on these regulations and called today saying they were postponing their public hearing for these amendments in order to revise and resubmit these changes in the future. He added the Township has had some residential and commercial interests along a couple of ridges. Even if these were over five mega-watts, one logically would think that some smaller groups would want to tap into that wind source as well.

Mr. Schaedlich commented that item 130.10.5.3 stated, "upon written notification from the zoning office" should probably state zoning inspector to be the same as the rest of the text proposals.

The Land Use and Zoning Committee and staff recommended sending the suggested comments to the Township Zoning Commission and to recommend rewriting this text with the Planning Commission staff's assistance.

Mr. Zondag moved to recommend returning the submitted text to the Madison Township Zoning Commission to be rewritten using staff's comments and their offer of assistance. Mr. Morse seconded the motion.

All voted "Aye".

#### Madison Township – Text Change to the Fee Schedule Resolution

This amendment would add a fee for site plan review and remove the \$35.00 fee for political signs. The fee schedule is not required to be part of the zoning resolution. The item that is required to be part of the zoning resolution is that the Township requires a fee for a zoning permit. Removing the fee schedule from the resolution will also remove the



requirement to have a public hearing when the fee schedule is revised. Removing the fee for political signs will cause changes to other sections of the zoning resolution.

Staff recommended removing the fee and also recommended removing the language "...and made a part of this Resolution" from Section 140.3.1, Zoning Fees. This would eliminate the requirement of a public hearing at the zoning commission level when the fees are revised. The fee listed in Section 128.9.10 will also need to be removed.

The Land Use and Zoning Committee recommended the text change with staff's suggestions.

Mr. Welch moved to accept the recommendation of the Land Use and Zoning Committee and Mr. Siegel seconded the motion.

All voted "Aye".

#### Madison Township – Proposed Text Addition of Section 123, Riparian Setbacks

The Madison Township Zoning Commission is adding Section 123, Riparian Setbacks, which sets rules for placement of building setbacks along stream, rivers and wetlands. This was a goal of their Comprehensive Plan. The language was based on the Chagrin River Partners model riparian setback ordinance.

The staff and Land Use and Zoning Committee are recommending this Section be accepted with the following changes:

- The regulations need to be put into the Madison Township Zoning Resolution format. For example, Section I Title would become 123.1 Title.
- All references to other sections must be checked to make sure they are correct and all extra text is removed.
- In the Definition Section, the definition for "Madison" means Madison Township. There is language where the term "Township" is used instead of the term "Madison". Township is not defined. Either define it or change it to Madison.
- Make sure that the S-1 District requirements and the riparian setbacks do not contradict each other.
- The setbacks shown on the graphic example do not conform to the requirements in the regulations. The regulations state there should be a 100-foot setback on a stream draining area between ½ square mile and 20 square miles and the drawing is showing a 75-foot setback on a stream draining an area of greater than 1 square mile to 20 square miles.
- Work with LCSWCD to prepare the guidance map.

Mr. Schaedlich stated the definitions on items A and J, be changed from "designed" employees to "designated" employees.

Mr. Boyd said staff had started the same process with Madison Township as they did with Leroy Township. The Leroy Township process took over a year to get through it and was surprised that this setback addition was returned so quickly. He wanted to let them know

that they should be sure the Trustees and the public are on board with riparian setbacks early in the planning process. Agriculture is basically exempt from this zoning. These help to achieve some of the Phase 2 stormwater parameters.

Mr. Brotzman remarked that he is seeing more flooding than containment by the tile that was put in the ground on his property 40- 50 years ago. The tiling there is not sufficient for the amount of water that is now entering his property. He felt there is more of a riparian need there than the tile provides. He thought this might be true of other agricultural properties in Lake County and wondered if a riparian setback could be used there.

Mr. Boyd commented on models reviewed by lawyers throughout northeast Ohio. The waterways on record are defined watercourses with a defined bed and bank and purposeful directional flow either intermittent or constant. In this particular case, there is no defined bed and bank. He thought this was more of a stormwater management issue.

Mr. Schaedlich said he did not see how the tile system could be dealt with as a potential tile is covered and you may not know the tile is there. If the tile were taken out, the parameters could start to be used. He understood the concern, but felt it did not apply in this case.

Mr. Brotzman wanted to make engineering aware that a house should not be put on top or right next to a tile that may not be functioning to the level it should.

Mr. Schaedlich thought these regulations for future development would keep them away from those corridors and provide more space for absorption for rain water, etc.

Mr. Boyd stated the riparian setback distances are based on the watershed in which it drains.

Mr. Siegel moved to return the riparian setback regulations to Madison Township and recommend they be re-written to include the Land Use and Zoning Committee's and staff's comments. Ms. Hausch seconded the motion.

All voted "Aye".

## REPORTS OF SPECIAL COMMITTEES

There was no report.

## CORRESPONDENCE

There was no correspondence.

## OLD BUSINESS

There was no old business.

## NEW BUSINESS

### Land Use and Zoning Committee Appointment

The Chair presented the potential appointment of Ms. Aven Malec as a new Perry Township representative to the Land Use and Zoning Committee and asked Mr. Siegel if Ms. Malec had any background in zoning. Mr. Siegel informed her that she has a Doctorate, is currently on the Township Appeals Board and had actually testified for them in a court case once. The Chair agreed to appoint her to the Land Use and Zoning Committee.

Ms. Pesec stated that, in the future, she would like to have something in writing from the applicant such as a simple resume or letter indicating that they were interested and showing their background in zoning.

Mr. Siegel mentioned they had been without a member for three months.

## PUBLIC COMMENT

There was no public comment.

## ADJOURNMENT

Mr. Siegel made a motion to adjourn the February 23, 2010 meeting at 7:50 p.m. and Mr. Adams seconded the motion.

All voted "Aye".